IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Revision No.613 of 1992

Date of Decision: March 21, 2007

Misra Singh

...Petitioner

VERSUS

Punjab State

...Respondent

CORAM: HON'BLE MR.JUSTICE RANJIT SINGH

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Ashok Jindal, Advocate,
for the petitioner.

Mr.G.S.Gill, AAG, Punjab,
for the State.

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RANJIT SINGH, J.

The petitioner is in revision against the order dismissing his appeal passed by Addl.Sessions Judge, Bhatinda, while up-holding the order of his conviction passed by Judicial Magistrate Ist Class, Mansa.

The petitioner was convicted for an offence under Section 9 of the Opium Act and sentenced to suffer rigorous imprisonment for two years and six months with fine of Rs.1000/-, in default whereof he was directed to further

undergo rigorous imprisonment for three months.

The prosecution story, in brief, is that on 31.1.1984 the petitioner was apprehended on suspicion by ASI Bakhshish Singh, who at that time was accompanied by HC Surjit Singh and Constable Harcharan Singh, while being on patrol duty. On seeing the police party, the petitioner sat down on the left side of the road on the pretext of urinating. On suspicion, his search was conducted after apprehension, which led to recovery of 10 Kgs. of opium wrapped in a glaze paper kept in Jhola carried by him. 20 grams opium was taken as a sample and the remaining was put in a tin box and made into a parcel. Both the parcels were sealed. On personal search of the petitioner, a 12 bore country made pistol and two cartridges were also recovered from his possession. After completion of investigation, challan was filed, leading to a charge and ultimate conviction of the petitioner under the Opium Act.

The prosecution case was supported by Constable Balwinder Singh and Baldev Singh, who appeared as witnesses and were subjected to thorough cross-examination by the defence. The trial court as well as the Appellate Court noted all the contentions raised on behalf of the petitioner and found that there was sufficient evidence to sustain the conviction of the petitioner.

The counsel for the petitioner has not made any substantial submission except to draw my attention to the evidence. In a way, he has sought re-appreciation of the evidence, which has sufficiently been discussed in detail by the Appellate Court. The plea of link evidence being missing in this case was rightly rejected as this was a case where the samples were received by Chemical Examiner

himself. As such, the plea that link evidence was missing is clearly not made out in the facts and circumstances of this case. The objection regarding non-joining of any independent witness is also of not much significance due to the fact that the recovery was from a place where it was not easy to get independent witnesses. The plea of the petitioner for his release on probation repeated before me can not be accepted and was also rightly rejected by the Appellate Court as well as trial court. The petitioner is attributed a recovery, which is indeed a very heavy. The petitioner is fortunate enough to have escaped the rigors of Narcotic Drugs and Psychotropic Substances Act. He can well imagine his fate, if his trial had been under the provisions of N.D.P.S.Act. The sentence awarded to the petitioner cannot be termed harsh or disproportionate in any manner. Rather it would appear to be lenient having regard to the quantity of opium recovered. No case for interference, as such, is made out.

The present revision would accordingly stand dismissed.

It is apparent from the record that the petitioner is on bail. He is accordingly directed to surrender before the Chief Judicial Magistrate, Bhatinda to undergo the remaining portion of the sentence.

March 21, 2007 (RANJIT SINGH)
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